

berson, Camp, Davenport, Dillard, Friend, Ireland, Joseph, Ledbetter, Morris, Moore, Parker, Randle, Russell and Swift—16.

Nays—Senators Allison, Ball, Burton, Dwyer, Erath, Stirman, Trolinger and Westfall—8.

FIFTY-SEVENTH DAY.

SENATE CHAMBER,)
AUSTIN, March 23, 1874. }

Senate met pursuant to adjournment.
Roll called; quorum present.

Prayer by the chaplain.

Journal of Saturday read and adopted.

On motion of Senator Erath, the door-keeper was excused for to-day on account of sickness.

Senator Joseph stated that Senator Trolinger had suddenly been called home on account of sickness in his family, and therefore moved that he be indefinitely excused. Granted.

Senator Friend, for Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Engrossed Bills beg leave to report that they have carefully examined and compared Senate bill No. 164, "An act to amend section eighteen of an act entitled 'An act concerning proceedings in the district court,'" passed sixteenth day of March, 1848, and took effect August 1, 1848, and find the same correctly engrossed.

W. R. FRIEND, for Committee.

Senator Westfall, for committee on Enrolled Bills submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills ask leave to report that they have carefully examined and compared Senate bill No. 49, "An act to regulate the testimony of witnesses in cases of bribery," and Senate bill No. 272, "An act making an appropriation for the per diem pay of members and the per diem pay of the officers and employees of the Fourteenth Legislature of the State of Texas," and find the same correctly enrolled and have this twenty-first day of March, at 1 P. M., 1874, presented the same to the Governor for his approval.

W. H. WESTFALL, for Committee.

Senator Westfall presented a memorial from Julius Quast "asking payment of a pay certificate," read and referred to Judiciary committee.

Senator Ireland, Chairman Judiciary

committee, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee, to whom was referred Senate bill No. 59, together with the veto message of the Governor thereon,

respectfully submit a substitute for said bill, embracing the first, second, third, fourth, fifth, sixth, tenth and eleventh sections of said original bill, and recommend the passage of said substitute. The sections of the original bill not embraced in the substitute relate wholly to the issuance of bonds. The bill, as embraced in this substitute, is imperatively demanded by the country.

IRELAND, Chairman.

The title of the substitute referred to is: "An act to authorize and allow the several county courts in this State to build court houses and jails and make repairs and improvements for the benefit of the county, and to provide funds to defray the expenses of the same."

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary, to whom was referred Senate bill No. 225, "An act to regulate the redemption of real estate sold for taxes, or by virtue of execution," ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary to whom was referred Senate bill No. 219, "An act to amend article 773 $\frac{1}{2}$ of the Penal Code," ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary to whom was referred Senate bill No. 214, "An act for the relief of purchasers of Austin city lots, forfeited while they were absent in service in the army of the Republic," ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary to whom was referred Senate bill No. 222, "An act to fix the fee of district clerks in certain cases," ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary to whom was referred Senate bill No. 215, "An act to provide for the removal from office of district attorneys, county treasurers, and county surveyors," ask leave to return the same with the recommendation that it do not pass. The same subject is embodied in a pending bill.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary to whom was referred Senate bill No. 226, "An act to amend 'An act to amend first and fourth sections of 'an act to reduce into one and amend the several acts concerning executions,' approved January 27, 1842; approved June 4, 1873, ask leave to return the same

with the recommendation that it do not pass, as it makes no material change in the law as it now stands.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary, to whom was referred Senate bill No. 221, "An act to amend Article 706 of the Penal Code," ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary, to whom was referred Senate bill No. 38, "An act to amend 'An act regulating proceedings in the district court,'" approved May 11, 1846, instruct me to report the same back, with the recommendation that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary, to whom was referred Senate bill No. 68, "An act for the protection of birds and game," ask leave to return the same with the accompanying substitute, and recommend the passage of said substitute.

IRELAND, Chairman.

The title of the substitute referred to, is "An act for the preservation of birds and game."

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee, to whom was referred Senate bill No. 131, "An act to protect purchasers at sales made by executors and administrators, by requiring deeds, in certain cases, to be recorded within a certain time, beg leave to report the same back with the recommendation that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee, to whom was referred Senate bill No. 216, "An act to validate the acts of R. W. Davis, a notary public of McLennan county," herewith report said bill back and ask the passage of the accompanying substitute.

IRELAND, Chairman.

The title of the substitute referred to is: "An act to validate the acts of certain notaries public."

Senator Culberson introduced a bill entitled "An act to amend section four of an act entitled 'An act to amend and supplemental to an act to provide for the incorporation of towns and cities. Read and referred to Committee on State Affairs.

Senator Westfall introduced a bill entitled "An act for the relief of the heirs of Joseph Percival, deceased. Read first time and referred to committee on Private Land Claims.

Senator Ellis introduced a bill entitled "An act to legalize the unconditional certificate of three hundred and twenty acres of land, issued to Josiah Powers, and the sur-

vey made by virtue of the same." Read first time and referred to committee on Private Land Claims.

Senator Joseph introduced a bill entitled "An act allowing the continued use of a partnership name in certain cases." Read first time and referred to Judiciary committee.

Senator Baker, Chairman Finance Committee submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your committee on Finance, to whom was referred Senate bill No. 283, "An act to make an appropriation to carry into effect 'An act authorizing quarantine on the coast of Texas and elsewhere, within the State,'" approved June 10, 1870, beg leave to report and recommend that the same do pass.

W. R. BAKER, Chairman.

Senator Ireland introduced a joint resolution entitled, "Joint resolution for paying George Gibbens, stenographer, for four days' labor in taking testimony in the addresses for the removal of district judges." Read first time and ordered to lie on the table.

Senator Ireland introduced the following resolution:

Resolved, That the Committee on Printing be, and are hereby, instructed to inquire into the printing of the laws of the Thirteenth Legislature in Spanish and German, and, if the public printer has not been paid therefor, to report a bill on that subject.

Read and referred to Committee on Public Printing.

On motion of Senator Westfall, the rules were suspended to take up House bill No. 151, "An act making an appropriation to pay costs due sheriffs, clerks and attorneys in felony cases in district courts for 1873 and previous years; to pay the fees of justices of the peace and other peace officers in criminal prosecutions for 1872 and previous years, and to pay justices of the peace for assessing the taxes for 1873." Bill taken up, read second time and passed to a third reading.

On motion of Senator Westfall, the rules were further suspended and the bill read a third time.

On motion of Senator Dillard, the bill was ordered to lie on the table.

On motion of Senator Ireland, the rules were suspended to take up the substitute offered by him this morning for Senate bill No. 59, "An act to allow the several county courts in this State to build court houses and jails, and make repairs and improvements for the benefit of the county, and to provide funds to defray the expenses of the same," the title of the substitute being "An act to authorize the several county courts in this State to build court houses and jails, and make repairs and improvements for the benefit of the county, and to provide funds to defray the expenses of the

same." Bill taken up, read first time and, on motion of Senator Ireland, rules suspended, bill read second time and ordered engrossed.

On motion of Senator Dwyer, the rules were further suspended, bill read third time and passed.

A message was received from the House announcing the passage of House concurrent resolution for appointment of a joint committee to investigate cases of bribery, connected with State affairs, since 1868; also, announcing that the House had appointed on said committee Messrs. Rainey, Storey and Harris.

On motion of Senator Friend, the rules were suspended and Senate bill No. 283, "An act to make an appropriation to carry into effect 'An act authorizing quarantine on the coast of Texas and elsewhere within the State of Texas,'" approved June 10, 1870, was taken up, read second time and ordered engrossed.

On motion of Senator Friend, the rules were further suspended, bill read third time and passed by the following vote:

Yeas—Senators Allison, Ball, Baker, Bradshaw, Bradley, Burton, Camp, Culberson, Davenport, Dillard, Dwyer, Ellis, Erath, Flanagan, Friend, Hobby, Ireland, Joseph, Ledbetter, Morris, Moore, Parker, Randle, Russell, Stirman, Swift, Westfall and Wood—26.

Nays—None.

On motion of Senator Ellis, the rules were suspended to take up the substitute for Senate bill No. 22, the title of said substitute being, "An act to amend an act entitled 'An act regulating elections,'" approved March 31, 1873, and an act entitled "An act to amend an act regulating elections," approved April 1, 1873.

On motion of Senator Ireland, the substitute was adopted.

On motion of Senator Ellis, the bill was considered by sections.

Senator Ellis offered the following amendment: In section one, line fifteen, add after the word "year" the following words, "or at any regular or called term when necessary." Adopted.

Senator Ellis offered the following amendment: Amend section one by adding after the word "shall," in line twenty, the words "at any regular or called term." Adopted.

Senator Ireland offered the following amendment: In section one, line thirty-five, add after the word "regular," the words "or any called term." Adopted.

Senator Bradley offered the following amendment: In section one, line thirty-five, strike out the words "their first," and insert the word "any." Adopted.

Section one, as amended, was then adopted.

Senator Bradshaw offered the following amendment: In section two, line thirty-six, strike out the word "will," and insert the word "shall." Adopted.

Section two as amended, was then adopted.

Senator Culberson offered the following amendment: Strike out section three. Lost.

Senator Culberson offered the following amendment: In section three, line fifty-two, after the word "years" the end of the section, add the words "*provided*, the voter shall apply for the certificate in person, two days before any election, and a note of said application shall be made by the clerk on a roll, to be kept in the clerk's office, for public inspection showing who have applied for such certificates." Adopted.

Senator Ireland offered the following amendment: In section three, line fifty-one, strike out the word "one," and insert the word "two." Adopted.

Senator Erath offered the following amendment to the amendment offered by Senator Culberson: "*And further provided*, where a registered voter from another precinct is well and personally known to the officers of the election, he shall not be required to make oath." Lost.

Senator Bradley offered the following amendment: In section three, line twelve, after the word "county," insert the words "under his official seal." Adopted.

Section three, as amended, was then adopted.

Senator Hobby offered the following amendment: In section four, line twenty-nine, after the word "district," insert the words: "*provided*, that if all the election returns from the district shall have been received by the returning officer of the district, before the said thirtieth day, then the said returning officer may count said returns and issue the certificate herein provided for." Adopted.

Senator Russell offered the following amendment: In section four, line twenty-three, after the word "election," add the words, "Sundays excluded." Adopted.

Senator Ireland offered the following amendment: In section four, line twenty-five, strike out the words "if practicable." Adopted.

Section four, as amended, was then adopted.

Section five was then read and adopted.

Senator Friend then moved to add an additional section, as follows:

Section 6. That this act take effect and be in force from its passage.

Adopted.

The bill, as amended, was then ordered engrossed.

On motion of Senator Dwyer, the rules were further suspended, bill read third time and passed.

Senator Dwyer moved a suspension of the rules to take up Senate bill No. 148, "An act to limit the amount to be issued in bonds of the State to the International railroad company, and to provide for the payment of the same."

Senator Ireland raised the point of order that no suspension of the rules was required, as the bill in question was a special order.

The President of the Senate ruled that a bill ceases to be a special order any longer than it reaches engrossment, or any final action on the same.

Senator Ireland appealed from the decision of the chair.

The decision of the chair was sustained.

The Senate then refused to suspend the rules to take up said bill by the following vote, it requiring a two thirds vote:

Yeas—Senators Baker, Burton, Culberson, Dwyer, Ellis, Flanagan, Friend, Joseph, Ireland, Ledbetter, Randle, Russell, Stirman and Swift—14.

Nays—Senators Allison, Ball, Bradshaw, Bradley, Camp, Davenport, Dillard, Erath, Hobby, Moore, Parker and Westfall—12.

The unfinished business being the consideration of House bill No. 128, "An act to provide for the protection of the frontier of the State of Texas against the invasion of hostile Indians, Mexicans or other marauding or thieving parties," it was taken up; the fifth section being under consideration.

Senator Culberson offered the following additional sections to said bill:

Sec. 20. That in addition to the force herein provided for, the Governor be and he is hereby authorized to organize a battalion of mounted men, to consist of four companies, of seventy-five men each, to be officered in accordance with the rules and regulations of the army of the United States. The battalion and company officers shall be appointed by the Governor, and shall be removed at his pleasure.

Sec. 21. The pay and allowance of the officers and men of this force shall be the same as now allowed for similar service in the army of the United States, except that no commutations for forage, fuel or quarters shall be allowed.

Sec. 22. The Governor shall appoint a quartermaster and paymaster for this force, who shall discharge all the duties usually imposed on quartermasters and commissaries, as far as may be necessary. The duties of said officers to be regulated by direction of the Governor.

Adopted.

Sec. 23. That the officers and men of this force shall be paid monthly or quarterly, as the Governor may direct.

Sec. 24. That this force is not designed as a standing force, but shall always be under the command of the Governor, to be operated by his direction in such manner,

in such detachments and in such localities as the Governor may direct, and the same shall be disbanded, and reorganized, or re-assembled, from time to time, as in his judgment the exigencies of the frontier may demand.

Sec. 25. Each soldier and officer shall furnish his own horse and, unless the same is killed in battle, shall not be paid for by the State; *provided*, if from any cause a soldier shall be dismounted, the commanding officer of the company, under direction of the Governor, shall furnish said soldier with a horse.

Sec. 26. The Governor is hereby authorized to keep this force in the field as long as in his judgment there may be a necessity for such force, and soldiers who may volunteer in such service, shall do so for such term, not to exceed four years subject to disbandment and re-assembly by order of the Governor.

Sec. 27. Whenever in the opinion of the Governor this force shall be insufficient to protect the frontier, he shall be authorized to call out the minute men or any part thereof hereinbefore provided for, which said force is hereby declared to be auxiliary and supplemental to the battalion of mounted men, authorized by this act.

Senator Ball moved that the amendments lie on the table, until the bill could be considered by sections. Carried.

Section five was then read.

Senator Moore offered the following amendment as a substitute for section five:

Sec. 5. That the pay of the officers and privates shall be as follows: For captains, \$120; lieutenants, \$100; sergeants \$75; all other non-commissioned officers and privates, \$65 per month, which pay shall be in lieu of all other allowances.

Lost.

Senator Dillard offered the following amendment: Amend section five by adding after the last word the following words: "and that said articles were actually used or consumed by said company." Adopted.

On motion of Senator Ball, section five, as amended, was then adopted.

Section six was then read.

Senator Dillard offered the following amendment: After the word "allowed" in section six, line four, insert the words "or shall pay more than the usual or customary price for the same." Adopted.

On motion of Senator Ball, section six, as amended, was then adopted.

Section seven was then read.

Senator Moore offered the following amendment as a substitute for section seven:

Sec. 7. That the commanding officer of each company mustered into service under the provisions of this act, shall forward to the Adjutant General of the State on the last day of each month, a pay roll showing

the amount due each member of his command; which pay roll shall be certified to by the commanding officer. And it is hereby made the duty of the Comptroller to draw his warrant upon the Treasurer in favor of each officer, non-commissioned officer and private in the command, separately for the amount due each one as set forth in the pay roll, which warrants shall be forwarded by the Adjutant General to the commanding officer of the company, to be delivered to the men of his command, and said warrants may be paid by the sheriff of the county in which the command was raised or is in service, out of any funds in his hands belonging to the State, and all transfer of warrants by officers or men shall be certified to before some civil officer authorized to administer oaths, and when so transferred, they shall be payable at the Treasury of the State upon presentation.

Adopted by the following vote:

Yeas—Senators Baker, Bradley, Camp, Ellis, Erath, Friend, Hobby, Ireland, Ledbetter, Morris, Moore, Parker, Russell and Swift—14.

Nays—Senators Allison, Ball, Bradshaw, Burton, Davenport, Dillard, Dwyer, Flanagan, Joseph, Randle, Stirman and Westfall—12.

Section eight was then read.

Senator Moore moved to strike out section eight. Carried.

Section nine was then read.

Senator Friend offered the following amendment: In section nine, line sixteen, at the end of the word "same" add the words, "upon the certificate of commanding officer of the company that the facts set forth in said affidavit are true." Adopted.

On motion of Senator Dillard, the ninth section was then adopted.

Section ten was then read.

On motion of Senator Dwyer, section ten was adopted.

Section eleven was then read.

On motion of Senator Swift, section eleven was then adopted.

Section twelve was then read and adopted.

Section thirteen was then read, and on motion of Senator Dwyer, was adopted.

Section fourteen was then read.

Senator Ellis offered the following amendment to said section: Strike out the word "soap" in the eleventh line. Lost.

Senator Friend offered the following amendment: In section fourteen, line fourteen, strike out the words, "fourteen pounds hay and." Adopted.

Section fourteen, as amended, was then adopted.

Section fifteen was then read and adopted.

Section sixteen was then read and the following amendments recommended by the

committee reporting on said bill, were, on motion of Senator Ball, adopted by the following vote:

Yeas—Senators Allison, Ball, Bradshaw, Bradley, Culberson, Davenport, Dwyer, Flanagan, Hobby, Ireland, Joseph, Ledbetter, Randle, Russell and Westfall—15.

Nays—Senators Baker, Burton, Camp, Dillard, Ellis, Erath, Friend, Morris, Moore, Parker, Stirman and Swift—12.

Amend section sixteen by striking out all after the word "captain," in line second, in said section, and insert as follows, to-wit: (\$100) one hundred dollars; lieutenants, (\$75) seventy-five dollars each; sergeants, (\$50) fifty dollars each; for all other non-commissioned officers (\$40) forty dollars each, and privates (\$40) forty dollars each per month for every month of actual service.

Section sixteen as amended, was then adopted.

Section seventeen was then read.

Senator Friend offered the following amendment: In section seventeen, line four, strike out the word "hundred," and insert the word "fifty." Lost.

Section seventeen was then adopted.

Section eighteen was then read, and on motion of Senator Allison, was adopted.

Section nineteen was then read, and on motion of Senator Ball, was adopted.

The amendments offered by Senator Culberson, and laid over, were then adopted by the following vote:

Yeas—Senators Baker, Bradley, Burton, Camp, Culberson, Dillard, Dwyer, Ellis, Erath, Hobby, Ireland, Ledbetter, Morris, Moore, Russell, Swift and Westfall—17.

Nays—Senators Allison, Ball, Bradshaw, Davenport, Flanagan, Friend, Joseph, Parker, Randle and Stirman—10.

Senator Dillard offered the following amendment as an additional section:

Sec. 28. That the Governor of the State is authorized to disband all troops now in service of the State for frontier protection as soon as practicable; and that they be allowed to retain all arms furnished by State at the same price that the same were furnished the State.

Adopted.

Senator Dillard then offered the following amendment as an additional section:

Sec. 29. That an act entitled "An act to provide for the protection of the frontier," approved June 13, 1870; also, an act entitled "An act to muster into service mounted men for the protection of the frontiers," approved November 25, 1871; also, an act entitled "An act to amend the first section of an act entitled 'An act to muster into service minute men for the protection of the frontiers,'" approved November 25, 1871, approved June 2, 1873; and all other laws and parts of laws heretofore enacted

on the same subject be and the same are hereby repealed.

Adopted.

Senator Swift moved a reconsideration of the vote taken heretofore, by which the amendment offered by Senator Moore to section one was lost.

The Senate refused to reconsider.

Senator Parker moved a reconsideration of the vote that adopted the first section.

The Senate refused to reconsider.

On motion of Senator Dillard, the rules were suspended and the bill, as amended, read third time and passed.

A message was received from the House, announcing the passage of House bill No. 266, "An act supplemental to 'An act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvements,'" approved April 12, 1871; also, the passage of House bill No. 224, "An act to regulate fire and marine insurance companies."

On motion of Senator Parker, the rules were suspended to take up House concurrent resolution "for appointment of a joint com-

mittee to investigate cases of bribery connected with State affairs since 1868."

The concurrent resolution was then read and adopted.

The President appointed Senators Dillard, Ireland and Ball as the committee on the part of the Senate.

Senator Ireland moved to reconsider the vote by which the Senate adopted the House concurrent resolution.

The Senate reconsidered the vote by the following vote:

Yeas—Senators Allison, Ball, Burton, Camp, Culberson, Davenport, Dwyer, Ellis, Flanagan, Friend, Ireland, Joseph, Ledbetter, Morris, Moore, Parker, Randle, Russell, Swift and Westfall—20.

Nays—Senators Baker, Bradshaw, Bradley, Dillard, Hobby and Stirman—6.

Senator Moore then offered the following amendment: Amend by striking out of the caption the word "concurrent," and insert the word "joint."

On motion of Senator Bradshaw, the Senate stood adjourned.